

CONSUMER RENTAL PURCHASE AGREEMENT ACT

—————
JULY 18, 2002.—Ordered to be printed
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Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 1701]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1701) to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consumer Rental Purchase Agreement Act”.

SEC. 2. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The rental-purchase industry provides a service that meets and satisfies the demands of many consumers.

(2) Each year, approximately 2,300,000 United States households enter into rental-purchase transactions and over a 5-year period approximately 4,900,000 United States households will do so.

(3) Competition among the various firms engaged in the extension of rental-purchase transactions would be strengthened by informed use of rental-purchase transactions.

(4) The informed use of rental-purchase transactions results from an awareness of the cost thereof by consumers.

(b) PURPOSE.—The purpose of this title is to assure the availability of rental-purchase transactions and to assure simple, meaningful, and consistent disclosure of rental-purchase terms so that consumers will be able to more readily compare the available rental-purchase terms and avoid uninformed use of rental-purchase transactions, and to protect consumers against unfair rental-purchase practices.

SEC. 3. CONSUMER CREDIT PROTECTION ACT.

The Consumer Credit Protection Act is amended by adding at the end the following new title:

“TITLE X—RENTAL-PURCHASE TRANSACTIONS

- “Sec. 1001. Definitions.
- “Sec. 1002. Exempted transactions.
- “Sec. 1003. General disclosure requirements.
- “Sec. 1004. Rental-purchase disclosures.
- “Sec. 1005. Other agreement provisions.
- “Sec. 1006. Right to acquire ownership.
- “Sec. 1007. Prohibited provisions.
- “Sec. 1008. Statement of accounts.
- “Sec. 1009. Renegotiations and extensions.
- “Sec. 1010. Point-of-rental disclosures.
- “Sec. 1011. Rental-purchase advertising.
- “Sec. 1012. Civil liability.
- “Sec. 1013. Additional grounds for civil liability.
- “Sec. 1014. Liability of assignees.
- “Sec. 1015. Regulations.
- “Sec. 1016. Enforcement.
- “Sec. 1017. Criminal liability for willful and knowing violation.
- “Sec. 1018. Relation to other laws.
- “Sec. 1019. Effect on government agencies.
- “Sec. 1020. Compliance date.

“SEC. 1001. DEFINITIONS.

“For purposes of this title, the following definitions shall apply:

“(1) ADVERTISEMENT.—The term ‘advertisement’ means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.

“(2) AGRICULTURAL PURPOSE.—The term ‘agricultural purpose’ includes—

“(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

“(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

“(3) BOARD.—The term ‘Board’ means the Board of Governors of the Federal Reserve System.

“(4) CASH PRICE.—The term ‘cash price’ means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

“(5) CONSUMER.—The term ‘consumer’ means a natural person who is offered or enters into a rental-purchase agreement.

“(6) DATE OF CONSUMMATION.—The term ‘date of consummation’ means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

“(7) INITIAL PAYMENT.—The term ‘initial payment’ means the amount to be paid before or at the consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

“(8) MERCHANT.—The term ‘merchant’ means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom a consumer’s initial payment under the agreement is payable.

“(9) PAYMENT SCHEDULE.—The term ‘payment schedule’ means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

“(10) PERIODIC PAYMENT.—The term ‘periodic payment’ means the total payment a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

“(11) PROPERTY.—The term ‘property’ means property that is not real property under the laws of the State where the property is located when it is made available under a rental-purchase agreement.

“(12) RENTAL PAYMENT.—The term ‘rental payment’ means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

“(13) RENTAL PERIOD.—The term ‘rental period’ means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the rental payment and any applicable taxes for such period.

“(14) RENTAL-PURCHASE AGREEMENT.—

“(A) IN GENERAL.—The term ‘rental-purchase agreement’ means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

“(B) EXCLUSIONS.—The term ‘rental-purchase agreement’ does not include—

“(i) a credit sale (as defined in section 103(g) of the Truth in Lending Act);

“(ii) a consumer lease (as defined in section 181(1) of such Act); or

“(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

“(15) RENTAL-PURCHASE COST.—

“(A) IN GENERAL.—For purposes of sections 1010 and 1011, the term ‘rental-purchase cost’ means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

“(i) Service, processing, or administrative charge.

“(ii) Fee for an investigation or credit report.

“(iii) Charge for delivery required by the merchant.

“(B) EXCLUDED ITEMS.—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

“(i) Fees and charges prescribed by law, which actually are or will be paid to public officials or government entities, such as sales tax.

“(ii) Fees and charges for optional products and services offered in connection with a rental-purchase agreement.

“(16) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

“(17) TOTAL COST.—The term ‘total cost’ means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer

to acquire ownership of the property that is the subject of the rental-purchase agreement.

“SEC. 1002. EXEMPTED TRANSACTIONS.

“This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with Government agencies or instrumentalities.

“SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

“(a) RECIPIENT OF DISCLOSURE.—A merchant shall disclose to any person who will be a signatory to a rental-purchase agreement the information required by sections 1004 and 1005.

“(b) TIMING OF DISCLOSURE.—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

“(c) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term ‘clearly and conspicuously’ means that information required to be disclosed to the consumer shall be worded plainly and simply, and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

“SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

“(a) IN GENERAL.—For each rental-purchase agreement, the merchant shall disclose to the consumer the following, to the extent applicable:

“(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

“(2) A brief description of the rental property, which shall be sufficient to identify the property to the consumer, including an identification or serial number, if applicable, and a statement indicating whether the property is new or used.

“(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

“(4) A clear and conspicuous statement that the transaction is a rental-purchase agreement and that the consumer will not obtain ownership of the property until the consumer has paid the total dollar amount necessary to acquire ownership.

“(5) The amount of any initial payment, which includes the first periodic payment, and the total amount of any fees, taxes, or other charges, required to be paid by the consumer.

“(6) The amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement.

“(7) The amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement.

“(8) The total cost, using that term, and a brief description, such as ‘This is the amount you will pay the merchant if you make all periodic payments to acquire ownership of the property.’.

“(9) A statement of the consumer’s right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any lease term.

“(10) Substantially the following statement: **‘OTHER IMPORTANT TERMS:** See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.’.

“(b) FORM OF DISCLOSURE.—The disclosures required by paragraphs (4) through (10) of subsection (a) shall be segregated from other information at the beginning of the rental-purchase agreement and shall contain only directly related information, and shall be identified in boldface, upper-case letters as follows: **‘IMPORTANT RENTAL-PURCHASE DISCLOSURES’**.

“(c) DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.—

“(1) IN GENERAL.—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agree-

ment that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

“(2) AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

“(A) the merchant clearly and conspicuously discloses to the consumer the cost of each component of such coverage before the consummation of the rental-purchase agreement; and

“(B) the consumer signs an affirmative written request for such coverage after receiving the disclosures required under subparagraph paragraph (A) of this paragraph and paragraph (1).

“(d) ACCURACY OF DISCLOSURE.—

“(1) IN GENERAL.—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

“(2) INFORMATION SUBSEQUENTLY RENDERED INACCURATE.—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

“SEC. 1005. OTHER AGREEMENT PROVISIONS.

“(a) IN GENERAL.—Each rental-purchase agreement shall—

“(1) provide a statement specifying whether the merchant or the consumer is responsible for loss, theft, damage, or destruction of the property;

“(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

“(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

“(4) contain a provision for reinstatement of the agreement, which at a minimum—

“(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a timely rental payment if the consumer pays more frequently than monthly;

“(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

“(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

“(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business.

“(5) provide a statement specifying the terms under which the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement either by payment of the total cost to acquire ownership, as provided in section 1006, or by exercise of any early purchase option provided in the rental-purchase agreement;

“(6) provide a statement disclosing that if any part of a manufacturer’s express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

“(7) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

“(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pursuant to subsection (a)(4)(A), but such a repossession does not affect the consumer’s right to reinstate.

“SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

“(a) IN GENERAL.—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

“(b) PAYMENT OF TOTAL COST.—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement, as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

“(c) ADDITIONAL FEES PROHIBITED.—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

“(d) TRANSFER OF OWNERSHIP RIGHTS.—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

“(1) deliver, or mail to the consumer’s last known address, such documents or other instruments, which the Board has determined by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

“(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

“SEC. 1007. PROHIBITED PROVISIONS.

“A rental-purchase agreement may not contain—

“(1) a confession of judgment;

“(2) a negotiable instrument;

“(3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;

“(4) a wage assignment;

“(5) a provision requiring the waiver of any legal claim or remedy created by this title or other provision of Federal or State law;

“(6) a provision requiring the consumer, in the event the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

“(A) the fair market value of the property, as determined by the Board in regulation;

“(B) any early purchase option amount provided in the rental-purchase agreement; or

“(C) the actual cost of repair, as appropriate;

“(7) a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer’s dwelling or other premises without obtaining the consumer’s consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;

“(8) a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation;

“(9) a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

“SEC. 1008. STATEMENT OF ACCOUNTS.

“Upon request of a consumer, a merchant shall provide a statement of the consumer’s account. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements.

“SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

“(a) RENEGOTIATIONS.—A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).

“(b) EXTENSIONS.—An extension is an agreement by the consumer and the merchant, to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.

“(c) EXCEPTIONS.—New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

“(1) A reduction in payments.

“(2) A deferment of 1 or more payments.

“(3) The extension of a rental-purchase agreement.

“(4) The substitution of property with property that has a substantially equivalent or greater economic value provided the rental-purchase cost does not increase.

“(5) The deletion of property in a multiple-item agreement.

“(6) A change in rental period provided the rental-purchase cost does not increase.

“(7) An agreement resulting from a court proceeding.

“(8) Any other event described in regulations prescribed by the Board.

“SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

“(a) IN GENERAL.—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

“(1) A brief description of the property.

“(2) Whether the property is new or used.

“(3) The cash price of the property.

“(4) The amount of each rental payment.

“(5) The total number of rental payments necessary to acquire ownership of the property.

“(6) The rental-purchase cost.

“(b) FORM OF DISCLOSURE.—

“(1) IN GENERAL.—A merchant may make the disclosure required by subsection (a) in the form of a list or catalog which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant’s showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

“(2) CLEARLY AND CONSPICUOUSLY.—As used in this section, the term ‘clearly and conspicuously’ means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

“SEC. 1011. RENTAL-PURCHASE ADVERTISING.

“(a) IN GENERAL.—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

“(1) The transaction advertised is a rental-purchase agreement.

“(2) The amount, timing, and total number of rental payments necessary to acquire ownership under the rental-purchase agreement.

“(3) The amount of the rental-purchase cost.

“(4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.

“(5) Whether the stated payment amount and advertised rental-purchase cost is for new or used property.

“(b) PROHIBITION.—An advertisement for a rental-purchase agreement shall not state or imply that a specific item, or set of items, is available at specific amounts or terms unless the merchant usually and customarily offers, or will offer, the item or set of items at the stated amounts or terms.

“(c) CLEARLY AND CONSPICUOUSLY.—

“(1) IN GENERAL.—For purposes of this section, the term ‘clearly and conspicuously’ means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

“(2) REGULATORY GUIDANCE.—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and computerized advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

“(3) LIMITATION.—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

“SEC. 1012. CIVIL LIABILITY.

“(a) IN GENERAL.—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term ‘creditor’ as used in section 130 shall include a ‘merchant’, as defined in section 1001.

“(b) JURISDICTION OF COURTS; LIMITATION ON ACTIONS.—

“(1) IN GENERAL.—Notwithstanding section 130(e), any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the last payment was made by the consumer under the rental-purchase agreement.

“(2) RECOUPMENT OR SET-OFF.—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

“SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

“(a) INDIVIDUAL CASES WITH ACTUAL DAMAGES.—Any merchant who fails to comply with any requirements imposed under section 1010 or 1011 with respect to any consumer who suffers actual damage from the violation shall be liable to such consumer as provided in section 130.

“(b) PATTERN OR PRACTICE OF VIOLATIONS.—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

“(1) an order to cease and desist from such practices; and

“(2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

“SEC. 1014. LIABILITY OF ASSIGNEES.

“(a) ASSIGNEES INCLUDED.—For purposes of section 1013, and this section, the term ‘merchant’ includes an assignee of a merchant.

“(b) LIABILITIES OF ASSIGNEES.—

“(1) APPARENT VIOLATION.—An action under section 1012 or 1013 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

“(2) APPARENT VIOLATION DEFINED.—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

“(3) INVOLUNTARY ASSIGNMENT.—An assignee has no liability in a case in which the assignment is involuntary.

“(4) RULE OF CONSTRUCTION.—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

“(b) PROOF OF DISCLOSURE.—In an action by or against an assignee, the consumer’s written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

“SEC. 1015. REGULATIONS.

“(a) IN GENERAL.—The Board shall prescribe regulations as necessary to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements.

“(b) MODEL DISCLOSURE FORMS.—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

“(1) uses any appropriate model form or clause as published by the Board; or

“(2) uses any such model form or clause and changes it by—

“(A) deleting any information which is not required by this title; or

“(B) rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

“(c) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

“SEC. 1016. ENFORCEMENT.

“(a) FEDERAL ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

“(b) STATE ENFORCEMENT.—

“(1) IN GENERAL.—An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.

“(2) PRIOR WRITTEN NOTICE.—

“(A) IN GENERAL.—The State attorney general shall provide prior written notice of any such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.

“(B) EMERGENCY ACTION.—If prior notice is not feasible, the State attorney general shall provide notice to the Commission immediately upon instituting the action.

“(3) FTC INTERVENTION.—The Commission may—

“(A) intervene in the action;

“(B) upon intervening—

“(i) remove the action to the appropriate United States district court, if it was not originally brought there; and

“(ii) be heard on all matters arising in the action; and

“(C) file a petition for appeal.

“SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

“Whoever willfully and knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder shall be subject to the penalty provisions as provided in section 112.

“SEC. 1018. RELATION TO OTHER LAWS.**“(a) RELATION TO STATE LAW.—**

“(1) NO EFFECT ON CONSISTENT STATE LAWS.—Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

“(2) DETERMINATION OF INCONSISTENCY.—Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

“(3) GREATER PROTECTION UNDER STATE LAW.—Except as provided in subsection (b), for purposes of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

“(b) STATE LAWS RELATING TO CHARACTERIZATION OF TRANSACTION.—Notwithstanding the provisions of subsection (a), this title shall supersede any State law to the extent that such law—

“(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit, or

“(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

“(c) RELATION TO FEDERAL TRADE COMMISSION ACT.—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

“SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

“No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

“SEC. 1020. COMPLIANCE DATE.

“Compliance with this title shall not be required until 6 months after the date of the enactment of the Consumer Rental Purchase Agreement Act. In any case, merchants may comply with this title at any time after such date of enactment.”.

PURPOSE AND SUMMARY

The purpose of the Consumer Rental Purchase Agreement Act is to set a “Federal floor” for consumer protection in rental-purchase transactions. Most States currently regulate rental-purchase transactions as leases; however, the scope and consumer protection requirements of these laws vary significantly by State. The bill improves consumer protections in 32 States, while allowing other States to adopt more stringent protections.

Currently, there is no Federal oversight or regulation of the rent to own industry. This bill amends the Consumer Credit Protection Act (CCPA) to provide such oversight and regulation. It provides meaningful and consistent disclosure of all rental-purchase agreement terms and provides substantive rights to consumers under

these agreements. This legislation provides a uniform method of disclosing the cost of the rental-purchase transactions in advertisements, product tags, and rental-purchase agreements; it would fill disclosure gaps that exist in many State laws and provide important substantive consumer protections. It would also ensure consistent treatment of the transaction as a lease and not a credit sale.

BACKGROUND AND NEED FOR LEGISLATION

In April 2000, the Federal Trade Commission (FTC) issued a staff report entitled, "Survey of Rent-to-Own Customers" which concluded that potential rental-purchase customers should have clear and accurate information about the total cost of the transaction in order to allow customers to compare rental-purchase transactions to other alternatives. The FTC also noted that inadequacies exist in many State rental-purchase disclosure laws. This bill cures those inadequacies.

Federal legislation to regulate this industry has been considered by Congress for more than a decade. Prior attempts to pass legislation failed largely over the issue of the appropriate level of consumer protections as part of a package that classifies these transactions as leases, as opposed to credit sales. The Consumer Rental Purchase Agreement Act addresses these concerns by adding consumer protections that are more substantive than prior bills and are in line with a majority of the States that have adopted rental-purchase legislation.

HEARINGS

The Subcommittee on Financial Institutions and Consumer Credit held a hearing on July 12, 2001, on the Consumer Rental Purchase Agreement Act. The following witnesses testified: Ms. Dolores Smith, Director, Division of Consumer Affairs, Board of Governors, Federal Reserve System; Mr. Howard Beales, Director, Bureau of Consumer Protection, Federal Trade Commission; Mr. David J. Gilles, Assistant Attorney General, Wisconsin Department of Justice; Mr. James Byrd, Byrd's TV (d/b/a Curtis Mathes, Inc.); Ms. Mamie Salazar Harper, Secretary, Board of Directors, Association for Progressive Rental Organizations (APRO); and Ms. Margot Saunders, Managing Attorney, National Consumer Law Center.

COMMITTEE CONSIDERATION

The Subcommittee on Financial Institutions and Consumer Credit met in open session on September 6 and October 28, 2001, and approved H.R. 1701 for full Committee consideration, as amended, by a record vote of 24 yeas and 4 nays, with 1 member voting present.

The Committee on Financial Services met in open session on June 26 and 27, 2002, and ordered H.R. 1701 reported to the House with a favorable recommendation, with an amendment, by a record vote of 29 yeas and 9 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a record vote of 29 yeas and 9 nays (Record vote no. 51). The names of members voting for and against follow:

YEAS	NAYS
Mr. Oxley	Mr. Ferguson
Mr. Leach	Mr. LaFalce
Mr. Bereuter	Mr. Frank
Mr. Bachus	Ms. Waters
Mr. Castle	Mr. Sanders
Mrs. Kelly	Mrs. Maloney of New York
Mr. Gillmor	Mr. Watt of North Carolina
Mr. Weldon of Florida	Ms. Lee
Mr. Ryun of Kansas	Mr. Capuano
Mr. LaTourette	
Mr. Jones of North Carolina	
Mrs. Biggert	
Mr. Shays	
Mr. Shadegg	
Mr. Fossella	
Mr. Gary G. Miller of California	
Mr. Cantor	
Mr. Grucci	
Ms. Hart	
Mr. Rogers of Michigan	
Mr. Tiberi	
Mr. Ackerman	
Mr. Maloney of Connecticut	
Ms. Hooley of Oregon	
Mr. Sherman	
Mr. Ford	
Mr. Lucas of Kentucky	
Mr. Shows	
Mr. Clay	

The following amendments were considered by record vote. The names of Members voting for and against follow:

An amendment to the amendment in the nature of a substitute by Ms. Waters, no. 1a, addressing the preemption of State law, was not agreed to by a record vote of 15 yeas and 33 nays (Record vote no. 46).

YEAS	NAYS
Mr. Frank	Mr. Oxley
Ms. Waters	Mr. Leach
Mr. Sanders	Mr. Bachus
Mrs. Maloney of New York	Mr. Royce
Mr. Gutierrez	Mr. Lucas of Oklahoma
Mr. Watt of North Carolina	Mrs. Kelly
Mr. Bentsen	Mr. Paul
Ms. Lee	Mr. Gillmor
Mr. Mascara	Mr. Cox

Ms. Schakowsky	Mr. Weldon of Florida
Mr. Gonzalez	Mr. Ryun of Kansas
Mrs. Jones of Ohio	Mr. LaTourette
Mr. Capuano	Mr. Manzullo
Mr. Clay	Mr. Jones of North Carolina
Mr. Israel	Mr. Ose
	Mrs. Biggert
	Mr. Toomey
	Mr. Shays
	Mr. Shadegg
	Mr. Fossella
	Mr. Gary G. Miller of California
	Mr. Cantor
	Mr. Grucci
	Ms. Hart
	Mrs. Capito
	Mr. Rogers of Michigan
	Mr. Tiberi
	Mr. Kanjorski
	Mr. Maloney of Connecticut
	Ms. Hooley of Oregon
	Mr. Sandlin
	Mr. Moore
	Mr. Lucas of Kentucky

An amendment to the amendment in the nature of a substitute by Mr. Sanders, 1b, grandfathering existing State laws, was not agreed to by a record vote of 15 yeas and 27 nays (Record vote no. 47).

YEAS	NAYS
Mr. Ferguson	Mr. Oxley
Mr. LaFalce	Mr. Leach
Ms. Waters	Mr. Bereuter
Mr. Sanders	Mr. Bachus
Mrs. Maloney of New York	Mr. Castle
Mr. Watt of North Carolina	Mr. Royce
Mr. Ackerman	Mr. Lucas of Oklahoma
Mr. Bentsen	Mrs. Kelly
Ms. Carson of Indiana	Mr. Gillmor
Ms. Lee	Mr. Weldon of Florida
Mr. Inslee	Mr. Ryun of Kansas
Ms. Schakowsky	Mr. Jones of North Carolina
Mrs. Jones of Ohio	Mrs. Biggert
Mr. Capuano	Mr. Shays
Mr. Crowley	Mr. Fossella
	Mr. Cantor
	Mr. Grucci
	Ms. Hart
	Mrs. Capito
	Mr. Rogers of Michigan
	Mr. Tiberi
	Mr. Kanjorski
	Mr. Maloney of Connecticut
	Mr. Moore
	Mr. Lucas of Kentucky

Mr. Shows
Mr. Ross

An amendment to the amendment in the nature of a substitute by Ms. Waters, 1c, prohibiting unfair or deceptive acts or practices, was not agreed to by a record vote of 12 yeas and 20 nays (Record vote no. 48).

YEAS	NAYS
Ms. Waters	Mr. Oxley
Mr. Sanders	Mr. Bereuter
Mrs. Maloney of New York	Mr. Bachus
Mr. Watt of North Carolina	Mr. Royce
Mr. Maloney of Connecticut	Mrs. Kelly
Ms. Carson of Indiana	Mr. Weldon of Florida
Ms. Lee	Mr. LaTourette
Mr. Inslee	Mr. Jones of North Carolina
Ms. Schakowsky	Mrs. Biggert
Mr. Moore	Mr. Fossella
Mrs. Jones of Ohio	Mr. Gary G. Miller of California
Mr. Capuano	Mr. Cantor
	Mr. Grucci
	Ms. Hart
	Mr. Ferguson
	Mr. Rogers of Michigan
	Mr. Tiberi
	Mr. Lucas of Kentucky
	Mr. Shows
	Mr. Ross

An amendment to the amendment in the nature of a substitute by Ms. Waters, 1d, prohibiting rental-purchase merchants from contractually allocating the responsibility for due care of the rental merchandise to the consumer, was not agreed to by a record vote of 12 yeas and 22 nays (Record vote no. 49).

YEAS	NAYS
Ms. Waters	Mr. Leach
Mr. Sanders	Mr. Bereuter
Mrs. Maloney of New York	Mr. Baker
Mr. Watt of North Carolina	Mr. Bachus
Ms. Carson of Indiana	Mr. Castle
Ms. Lee	Mr. Royce
Mr. Inslee	Mrs. Kelly
Ms. Schakowsky	Mr. Weldon of Florida
Mr. Moore	Mr. LaTourette
Mrs. Jones of Ohio	Mr. Jones of North Carolina
Mr. Capuano	Mrs. Biggert
Mr. Hinojosa	Mr. Fossella
	Mr. Gary G. Miller of California
	Mr. Cantor
	Mr. Grucci
	Ms. Hart
	Mr. Ferguson
	Mr. Rogers of Michigan
	Mr. Tiberi
	Mr. Maloney of Connecticut

Mr. Lucas of Kentucky
Mr. Shows

An amendment to the amendment in the nature of a substitute by Ms. Waters, no. 1f, requiring the rent to own industry to disclose the manufacturer's suggested retail price of a product, was not agreed to by a record vote of 10 yeas and 24 nays (Record vote no. 50).

YEAS	NAYS
Mr. LaFalce	Mr. Oxley
Mr. Frank	Mr. Leach
Ms. Waters	Mr. Bereuter
Mr. Sanders	Mr. Bachus
Mrs. Maloney of New York	Mr. Castle
Mr. Watt of North Carolina	Mrs. Kelly
Ms. Carson of Indiana	Mr. Gillmor
Ms. Lee	Mr. Weldon of Florida
Mr. Capuano	Mr. LaTourette
Mr. Clay	Mr. Jones of North Carolina
	Mrs. Biggert
	Mr. Shays
	Mr. Shadegg
	Mr. Fossella
	Mr. Gary G. Miller of California
	Mr. Cantor
	Mr. Grucci
	Ms. Hart
	Mr. Ferguson
	Mr. Rogers of Michigan
	Mr. Tiberi
	Mr. Maloney of Connecticut
	Mr. Lucas of Kentucky
	Mr. Shows

The following amendments were also considered by the Committee:

An amendment in the nature of a substitute by Mr. Jones, of North Carolina, no. 1, making various substantive and technical changes to the bill, was agreed to by a voice vote, as amended.

An amendment to the amendment in the nature of a substitute by Mr. Watt, no. 1e, clarifying the provision preempting any State law that treats a rental-purchase transaction as a credit sale, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute by Mr. LaFalce, no. 1g, making changes to the term "cash price" and the determination of cash price and making changes to the early purchase option section, was not agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

After enactment of this legislation, consumers will enjoy increased protections in rental-purchase transactions through the establishment of Federal minimum protections.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that this legislation would result in no new budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 2002.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1701, the Consumer Rental Purchase Agreement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Ken Johnson (for federal costs), Greg Waring (for the state and local impact), and Page Piper/Bach (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1701—Consumer Rental Purchase Agreement Act

Summary: H.R. 1701 would impose several restriction on “rent-to-own” transactions, wherein a consumer rents an item for a short time and retains the option to buy the item at the end of the rental period. For example, sellers would be required to disclose certain information about the terms of the rent-to-own contract and would be prohibited from assessing most fees for such contracts.

Regulations to implement H.R. 1701 would be developed by the Board of Governors of the Federal Reserve System. Also, the Fed-

eral Trade Commission (FTC) would enforce the bill's provisions under the authority provided by the Federal Trade Commission Act, which allows the FTC to punish violations with civil penalties. Finally, H.R. 1701 would create new criminal penalties for merchants who knowingly fail to provide information to rent-to-own consumers as required under the bill.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1701 would cost the FTC about \$650,000 a year. Because the bill would create new civil and criminal penalties and would impose costs on the Federal Reserve, we also estimate that the bill would have negligible effects on both spending and revenues. Therefore, pay-as-you-go procedures would apply.

H.R. 1701 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that complying with the mandates would result in no costs to state, local, or tribal governments. Therefore, the threshold established by UMRA (\$58 million in 2002, adjusted annually for inflation) would not be exceeded.

H.R. 1701 would impose private-sector mandates, as defined by UMRA, but CBO estimates that the direct cost of those mandates would fall before the annual threshold established by UMRA (\$115 million in 2002, adjusted annually for inflation).

Basis of estimate: According to the FTC, the agency would need to hire about five new attorneys and investigators to enforce the restrictions that would be imposed by H.R. 1701. CBO estimates that these new hires would cost about \$650,000 a year, subject to the availability of appropriated funds.

The regulations to implement this bill would be written by the Federal Reserve. Budgetary effects on the Federal Reserve are recorded in the budget as changes in revenues (governmental receipts). Based on information from the Federal Reserve, CBO estimates that enacting H.R. 1701 would reduce such revenues by less than \$500,000 a year.

Because those who violate the provisions of H.R. 1701 could be subject to civil and criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of civil and criminal penalties are classified in the budget as governmental receipts (revenues). Based on information from the FTC, however, CBO estimates that any such increase in collections would be less than \$500,000 per year.

Collections of criminal fines are deposited in the Crime Victims Fund and spent in subsequent years. Because any increase in direct spending would equal the amount of fines collected (with a lag), the additional direct spending also would be negligible.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Although H.R. 1701 would affect both direct spending and receipts, CBO estimates that the net effects would be insignificant.

Estimated impact on state, local, and tribal governments: H.R. 1701 would annul state laws that are inconsistent with federal regulations for rental-purchase agreements. Merchants would be held harmless from liability under the state law in question. The bill also would supersede any state law that treats a rental-purchase

agreement as a form of consumer credit or a creation of debt, and states would no longer be able to make an independent determination of the nature of the rental-purchase agreement. Such preemptions would be intergovernmental mandates as defined in UMRA. CBO estimates, however, that the preemptions would not affect the budgets of state, local, or tribal governments because they would impose no duty on states that would result in additional spending. Therefore, the threshold established by UMRA (\$58 million in 2002, adjusted annually for inflation) would not be exceeded.

Estimated impact on the private sector: H.R. 1701 would impose private-sector mandates, as defined by UMRA, but CBO estimates that the direct cost of those mandates would fall below the annual threshold established by UMRA (\$115 million in 2002, adjusted annually for inflation).

The bill would require merchants who provide the use of property through a rental-purchase agreement to make certain disclosures to consumers in the rental-purchase agreements and in advertisements. Under the bill, such merchants also would be required to provide merchandise labeling and to furnish statements of account to customers. In addition, the bill would prohibit those merchants from charging certain additional fees and from entering the premises of customers to reclaim property without the customer's permission. Currently, 47 states require some type of disclosure and labeling for such merchants. According to industry representatives, the additional cost for all such merchants to provide the required disclosures and adhere to the prohibitions in the bill would be small. Therefore, CBO estimates that the direct cost to comply with the mandates would fall below the annual threshold established by UMRA (\$115 million in 2002, adjusted annually for inflation).

Estimate prepared by: Federal costs: Ken Johnson; impact on the Federal Reserve: Andrew Shaw; impact on state, local, and tribal governments: Greg Waring; impact on the private sector: Paige Piper/Bach.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the “Consumer Rental Purchase Agreement Act.”

Section 2. Findings and declaration of purpose

This section sets forth certain facts concerning the rental-purchase industry and also declares the purposes of the Act.

Section 3. Consumer Credit Protection Act

This section places the Act in The Consumer Credit Protection Act by adding a new Title X to The Consumer Credit Protection Act.

TITLE X—RENTAL PURCHASE TRANSACTIONS

Section 1001. Definitions

This section defines the following terms that are used in the Act: advertisement, agricultural purpose, board, cash price, consumer, date of consummation, initial payment, merchant, payment schedule, periodic payment, property, rental payment, rental period, rental purchase agreement, rental purchase cost, State, and total cost.

Section 1002. Exempted transactions

This section clarifies that the Act applies to consumer rental-purchase transactions, not transactions for business, commercial, agricultural purposes, or those involving the government.

Section 1003. General disclosure requirements

This section requires that the disclosures called for in the Act be made to any person who signs a rental-purchase agreement. It provides that the required disclosures be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing as part of the rental-purchase agreement to be signed by the consumer.

Section 1004. Rental-purchase disclosures

This section enumerates the 10 disclosures that must be made to consumers in a rental purchase agreement. It also requires that the financial disclosures must be segregated from the other disclosures and labeled “Important Rental Purchase Disclosures” in bold-face and uppercase.

In addition, the section requires a disclosure that insurance or liability damage waiver is not mandatory. However, a merchant may offer insurance or liability damage waiver if the merchant discloses the cost of the coverage and the consumer agrees to the coverage in writing after receiving the disclosure.

This section provides that a disclosure that becomes inaccurate in the future is not a violation unless it is the result of merchant conduct without the consumer's consent and not otherwise allowed by the rental-purchase agreement.

Section 1005. Other agreement provisions

This section enumerates additional items that must be included in each rental-purchase agreement, including termination terms, reinstatement rights, manufacturers warranty and disclosure of late fees.

Section 1006. Right to acquire ownership

This section provides that if certain conditions are met, the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement. A merchant is prohibited from requiring the consumer to pay additional fees as a condition for acquiring ownership. Upon payment by the consumer of all amounts necessary to acquire ownership, the merchant shall transfer ownership rights.

Section 1007. Prohibited provisions

This section prohibits a rental-purchase agreement from containing: a confession of judgment; a negotiable instrument; a security interest in other property; a wage assignment; a waiver of any claims or defenses. This section also prohibits provisions requiring the consumer, in the event the rental-purchase property is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of: the fair market value of the property; the early purchase-option amount; or the actual cost of repair.

This section also prohibits a rental-purchase agreement from containing provisions that: authorize the merchant, or a person acting on behalf of the merchant, to enter the consumer's dwelling without obtaining the consumer's consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement; require the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement; require the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.

Section 1008. Statement of accounts

This section requires the merchant to give the consumer a statement of account four times every 12 months, without charge, upon the consumer's request.

Section 1009. Renegotiations and extensions

This section provides that a renegotiation of a rental-purchase agreement requires new disclosures. It also defines the term "extension" to be an agreement by the consumer and the merchant to continue an existing rental-purchase agreement beyond the original end of the payment schedule. The section also provides exceptions

to the requirement that new disclosures be made as a result of a renegotiation or extension.

Section 1010. Point-of-rental disclosures

This section requires certain disclosures on price tags in the store. It also allows disclosures to be made in the form of a list or catalog if the rental-purchase merchandise is not displayed in the store or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

Section 1011. Rental-purchase advertising

This section enumerates certain disclosures that are required to be made in rental-purchase advertising if the amount of any payment for any specific item appears in the advertisement.

Section 1012. Civil liability

This section adopts criminal and civil liability provisions modeled after the Truth in Lending Act's liability provisions.

Section 1013. Additional grounds for civil liability

This section provides that a merchant is liable for price tag and advertising violations, if a consumer suffers actual damages. In instances where a merchant engages in a pattern or practice of price tag or advertising violations, the FTC and State Attorney's General are authorized to enforce sanctions against such merchant.

Section 1014. Liability of assignees

This section provides that the term "merchant," includes an assignee, but limits an assignee's liability to violations apparent on the face of a rental-purchase agreement, and provides that there is no liability when the assignment is involuntary.

Section 1015. Regulations

This section directs the Federal Reserve Board to prescribe regulations as necessary to carry out the purposes of the Act, including publishing model forms. This section provides that a merchant shall be deemed in compliance with the disclosure requirements of the Act if the merchant uses the FRB's model forms. The section establishes an effective date for any FRB regulations.

Section 1016. Enforcement

This section provides that the FTC has enforcement authority and declares that a violation of the Act is also a violation of the FTC Act. It also allows States' Attorneys General to enforce the Act in State or Federal court. In addition, it allows the Federal Reserve Board to intervene in any suit filed by a State Attorney General.

Section 1017. Criminal liability for willful and knowing violation

This section provides criminal liability for willful and knowing violations of the Act.

Section 1018. Relation to other laws

This section provides a "Federal floor." This Act does not supersede any State laws relating to rental-purchase agreements, except to the extent that they are inconsistent with the provisions of this

Act, and then only to the extent of the inconsistency. A term or provision of a State law is not inconsistent with the provisions of this Act if the protection and benefit such law affords any consumer is greater than the protection and benefit provided under this Act. It allows State rental-purchase laws to provide greater consumer protection, provided that no State law can characterize a rental-purchase transaction as a credit sale, security interest, retail installment sale, conditional sale, or any other form of consumer credit, or require the disclosure of an interest rate or similar calculation.

Section 1019. Effect on government agencies

This section provides that no civil liabilities shall arise under this Act for Federal or State government entities.

Section 1020. Compliance date

This section requires compliance with the Act six months after enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE X OF THE CONSUMER CREDIT PROTECTION ACT

***TITLE X—RENTAL-PURCHASE
TRANSACTIONS***

- Sec. 1001. Definitions.*
- Sec. 1002. Exempted transactions.*
- Sec. 1003. General disclosure requirements.*
- Sec. 1004. Rental-purchase disclosures.*
- Sec. 1005. Other agreement provisions.*
- Sec. 1006. Right to acquire ownership.*
- Sec. 1007. Prohibited provisions.*
- Sec. 1008. Statement of accounts.*
- Sec. 1009. Renegotiations and extensions.*
- Sec. 1010. Point-of-rental disclosures.*
- Sec. 1011. Rental-purchase advertising.*
- Sec. 1012. Civil liability.*
- Sec. 1013. Additional grounds for civil liability.*
- Sec. 1014. Liability of assignees.*
- Sec. 1015. Regulations.*
- Sec. 1016. Enforcement.*
- Sec. 1017. Criminal liability for willful and knowing violation.*
- Sec. 1018. Relation to other laws.*
- Sec. 1019. Effect on government agencies.*
- Sec. 1020. Compliance date.*

SEC. 1001. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

- (1) ADVERTISEMENT.—The term “advertisement” means a commercial message in any medium that promotes, directly or indirectly, a rental-purchase agreement but does not include price tags, window signs, or other in-store merchandising aids.*

(2) *AGRICULTURAL PURPOSE.*—The term “agricultural purpose” includes—

(A) the production, harvest, exhibition, marketing, transformation, processing, or manufacture of agricultural products by a natural person who cultivates plants or propagates or nurtures agricultural products; and

(B) the acquisition of farmlands, real property with a farm residence, or personal property and services used primarily in farming.

(3) *BOARD.*—The term “Board” means the Board of Governors of the Federal Reserve System.

(4) *CASH PRICE.*—The term “cash price” means the price at which a merchant, in the ordinary course of business, offers to sell for cash the property that is the subject of the rental-purchase transaction.

(5) *CONSUMER.*—The term “consumer” means a natural person who is offered or enters into a rental-purchase agreement.

(6) *DATE OF CONSUMMATION.*—The term “date of consummation” means the date on which a consumer becomes contractually obligated under a rental-purchase agreement.

(7) *INITIAL PAYMENT.*—The term “initial payment” means the amount to be paid before or at the consummation of the agreement or the delivery of the property if delivery occurs after consummation, including the rental payment; service, processing, or administrative charges; delivery fee; refundable security deposit; taxes; mandatory fees or charges; and any optional fees or charges agreed to by the consumer.

(8) *MERCHANT.*—The term “merchant” means a person who provides the use of property through a rental-purchase agreement in the ordinary course of business and to whom a consumer’s initial payment under the agreement is payable.

(9) *PAYMENT SCHEDULE.*—The term “payment schedule” means the amount and timing of the periodic payments and the total number of all periodic payments that the consumer will make if the consumer acquires ownership of the property by making all periodic payments.

(10) *PERIODIC PAYMENT.*—The term “periodic payment” means the total payment a consumer will make for a specific rental period after the initial payment, including the rental payment, taxes, mandatory fees or charges, and any optional fees or charges agreed to by the consumer.

(11) *PROPERTY.*—The term “property” means property that is not real property under the laws of the State where the property is located when it is made available under a rental-purchase agreement.

(12) *RENTAL PAYMENT.*—The term “rental payment” means rent required to be paid by a consumer for the possession and use of property for a specific rental period, but does not include taxes or any fees or charges.

(13) *RENTAL PERIOD.*—The term “rental period” means a week, month, or other specific period of time, during which the consumer has a right to possess and use property that is the subject of a rental-purchase agreement after paying the rental payment and any applicable taxes for such period.

(14) *RENTAL-PURCHASE AGREEMENT.*—

(A) *IN GENERAL.*—The term “rental-purchase agreement” means a contract in the form of a bailment or lease for the use of property by a consumer for an initial period of 4 months or less, that is renewable with each payment by the consumer, and that permits but does not obligate the consumer to become the owner of the property.

(B) *EXCLUSIONS.*—The term “rental-purchase agreement” does not include—

(i) a credit sale (as defined in section 103(g) of the Truth in Lending Act);

(ii) a consumer lease (as defined in section 181(1) of such Act); or

(iii) a transaction giving rise to a debt incurred in connection with the business of lending money or a thing of value.

(15) *RENTAL-PURCHASE COST.*—

(A) *IN GENERAL.*—For purposes of sections 1010 and 1011, the term “rental-purchase cost” means the sum of all rental payments and mandatory fees or charges imposed by the merchant as a condition of entering into a rental-purchase agreement or acquiring ownership of property under a rental-purchase agreement, such as the following:

(i) Service, processing, or administrative charge.

(ii) Fee for an investigation or credit report.

(iii) Charge for delivery required by the merchant.

(B) *EXCLUDED ITEMS.*—The following fees or charges shall not be taken into account in determining the rental-purchase cost with respect to a rental-purchase transaction:

(i) Fees and charges prescribed by law, which actually are or will be paid to public officials or government entities, such as sales tax.

(ii) Fees and charges for optional products and services offered in connection with a rental-purchase agreement.

(16) *STATE.*—The term “State” means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(17) *TOTAL COST.*—The term “total cost” means the sum of the initial payment and all periodic payments in the payment schedule to be paid by the consumer to acquire ownership of the property that is the subject of the rental-purchase agreement.

SEC. 1002. EXEMPTED TRANSACTIONS.

This title shall not apply to rental-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with Government agencies or instrumentalities.

SEC. 1003. GENERAL DISCLOSURE REQUIREMENTS.

(a) *RECIPIENT OF DISCLOSURE.*—A merchant shall disclose to any person who will be a signatory to a rental-purchase agreement the information required by sections 1004 and 1005.

(b) *TIMING OF DISCLOSURE.*—The disclosures required under sections 1004 and 1005 shall be made before the consummation of the rental-purchase agreement and clearly and conspicuously in writing

as part of the rental-purchase agreement to be signed by the consumer.

(c) **CLEARLY AND CONSPICUOUSLY.**—As used in this section, the term “clearly and conspicuously” means that information required to be disclosed to the consumer shall be worded plainly and simply, and appear in a type size, prominence, and location as to be readily noticeable, readable, and comprehensible to an ordinary consumer.

SEC. 1004. RENTAL-PURCHASE DISCLOSURES.

(a) **IN GENERAL.**—For each rental-purchase agreement, the merchant shall disclose to the consumer the following, to the extent applicable:

(1) The date of the consummation of the rental-purchase transaction and the identities of the merchant and the consumer.

(2) A brief description of the rental property, which shall be sufficient to identify the property to the consumer, including an identification or serial number, if applicable, and a statement indicating whether the property is new or used.

(3) A description of any fee, charge or penalty, in addition to the periodic payment, that the consumer may be required to pay under the agreement, which shall be separately identified by type and amount.

(4) A clear and conspicuous statement that the transaction is a rental-purchase agreement and that the consumer will not obtain ownership of the property until the consumer has paid the total dollar amount necessary to acquire ownership.

(5) The amount of any initial payment, which includes the first periodic payment, and the total amount of any fees, taxes, or other charges, required to be paid by the consumer.

(6) The amount of the cash price of the property that is the subject of the rental-purchase agreement, and, if the agreement involves the rental of 2 or more items as a set (as may be defined by the Board in regulation) a statement of the aggregate cash price of all items shall satisfy this requirement.

(7) The amount and timing of periodic payments, and the total number of periodic payments necessary to acquire ownership of the property under the rental-purchase agreement.

(8) The total cost, using that term, and a brief description, such as “This is the amount you will pay the merchant if you make all periodic payments to acquire ownership of the property.”.

(9) A statement of the consumer’s right to terminate the agreement without paying any fee or charge not previously due under the agreement by voluntarily surrendering or returning the property in good repair upon expiration of any lease term.

(10) Substantially the following statement: **“OTHER IMPORTANT TERMS:** See your rental-purchase agreement for additional important information on early termination procedures, purchase option rights, responsibilities for loss, damage or destruction of the property, warranties, maintenance responsibilities, and other charges or penalties you may incur.”.

(b) **FORM OF DISCLOSURE.**—The disclosures required by paragraphs (4) through (10) of subsection (a) shall be segregated from other information at the beginning of the rental-purchase agreement and shall contain only directly related information, and shall be

identified in boldface, upper-case letters as follows: “**IMPORTANT RENTAL-PURCHASE DISCLOSURES**”.

(c) **DISCLOSURE REQUIREMENTS RELATING TO INSURANCE PREMIUMS AND LIABILITY WAIVERS.**—

(1) **IN GENERAL.**—A merchant shall clearly and conspicuously disclose in writing to the consumer before the consummation of a rental-purchase agreement that the purchase of leased property insurance or liability waiver coverage is not required as a condition for entering into the rental-purchase agreement.

(2) **AFFIRMATIVE WRITTEN REQUEST AFTER COST DISCLOSURE.**—A merchant may provide insurance or liability waiver coverage, directly or indirectly, in connection with a rental-purchase transaction only if—

(A) the merchant clearly and conspicuously discloses to the consumer the cost of each component of such coverage before the consummation of the rental-purchase agreement; and

(B) the consumer signs an affirmative written request for such coverage after receiving the disclosures required under subparagraph paragraph (A) of this paragraph and paragraph (1).

(d) **ACCURACY OF DISCLOSURE.**—

(1) **IN GENERAL.**—The disclosures required to be made under subsection (a) shall be accurate as of the date the disclosures are made, based on the information available to the merchant.

(2) **INFORMATION SUBSEQUENTLY RENDERED INACCURATE.**—If information required to be disclosed under subsection (a) is subsequently rendered inaccurate as a result of any agreement between the merchant and the consumer subsequent to the delivery of the required disclosures, the resulting inaccuracy shall not constitute a violation of this title.

SEC. 1005. OTHER AGREEMENT PROVISIONS.

(a) **IN GENERAL.**—Each rental-purchase agreement shall—

(1) provide a statement specifying whether the merchant or the consumer is responsible for loss, theft, damage, or destruction of the property;

(2) provide a statement specifying whether the merchant or the consumer is responsible for maintaining or servicing the property, together with a brief description of the responsibility;

(3) provide that the consumer may terminate the agreement without paying any charges not previously due under the agreement by voluntarily surrendering or returning the property that is the subject of the agreement upon expiration of any rental period;

(4) contain a provision for reinstatement of the agreement, which at a minimum—

(A) permits a consumer who fails to make a timely rental payment to reinstate the agreement, without losing any rights or options which exist under the agreement, by the payment of all past due rental payments and any other charges then due under the agreement and a payment for the next rental period within 7 business days after failing to make a timely rental payment if the consumer pays monthly, or within 3 business days after failing to make a

timely rental payment if the consumer pays more frequently than monthly;

(B) if the consumer returns or voluntarily surrenders the property covered by the agreement, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 60 days after the date of the return or surrender of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period;

(C) if the consumer has paid 50 percent or more of the total cost necessary to acquire ownership and returns or voluntarily surrenders the property, other than through judicial process, during the applicable reinstatement period set forth in subparagraph (A), permits the consumer to reinstate the agreement during a period of at least 120 days after the date of the return of the property by the payment of all amounts previously due under the agreement, any applicable fees, and a payment for the next rental period; and

(D) permits the consumer, upon reinstatement of the agreement to receive the same property, if available, that was the subject of the rental-purchase agreement, or if the same property is not available, a substitute item of comparable quality and condition may be provided to the consumer; except that, the Board may, by regulation or order, exempt any independent small business (as defined by the Board by regulation) from the requirement of providing the same or comparable product during the extended reinstatement period provided in subparagraph (C), if the Board determines, taking into account such standards as the Board determines to be appropriate, that the reinstatement right provided in such subparagraph would provide excessive hardship for such independent small business;

(5) provide a statement specifying the terms under which the consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement either by payment of the total cost to acquire ownership, as provided in section 1006, or by exercise of any early purchase option provided in the rental-purchase agreement;

(6) provide a statement disclosing that if any part of a manufacturer's express warranty covers the property at the time the consumer acquires ownership of the property, the warranty will be transferred to the consumer if allowed by the terms of the warranty; and

(7) provide, to the extent applicable, a description of any grace period for making any periodic payment, the amount of any security deposit, if any, to be paid by the consumer upon initiation of the rental-purchase agreement, and the terms for refund of such security deposit to the consumer upon return, surrender or purchase of the property.

(b) REPOSSESSION DURING REINSTATEMENT PERIOD.—Subsection (a)(4) shall not be construed so as to prevent a merchant from attempting to repossess property during the reinstatement period pur-

suant to subsection (a)(4)(A), but such a repossession does not affect the consumer's right to reinstate.

SEC. 1006. RIGHT TO ACQUIRE OWNERSHIP.

(a) *IN GENERAL.*—The consumer shall acquire ownership of the property that is the subject of the rental-purchase agreement, and the rental-purchase agreement shall terminate, upon compliance by the consumer with the requirements of subsection (b) or any early payment option provided in the rental purchase agreement, and upon payment of any past due payments and fees, as permitted in regulation by the Board.

(b) *PAYMENT OF TOTAL COST.*—The consumer shall acquire ownership of the rental property upon payment of the total cost of the rental-purchase agreement, as such term is defined in section 1001(17), and as disclosed to the consumer in the rental-purchase agreement pursuant to section 1004(a).

(c) *ADDITIONAL FEES PROHIBITED.*—A merchant shall not require the consumer to pay, as a condition for acquiring ownership of the property that is the subject of the rental-purchase agreement, any fee or charge in addition to, or in excess of, the regular periodic payments required by subsection (b), or any early purchase option amount provided in the rental-purchase agreement, as applicable. A requirement that the consumer pay an unpaid late charge or other fee or charge which the merchant has previously billed to the consumer shall not constitute an additional fee or charge for purposes of this subsection.

(d) *TRANSFER OF OWNERSHIP RIGHTS.*—Upon payment by the consumer of all payments necessary to acquire ownership under subsection (b) or any early purchase option amount provided in the rental-purchase agreement, as appropriate, the merchant shall—

(1) deliver, or mail to the consumer's last known address, such documents or other instruments, which the Board has determined by regulation, are necessary to acknowledge full ownership by the consumer of the property acquired pursuant to the rental-purchase agreement; and

(2) transfer to the consumer the unexpired portion of any warranties provided by the manufacturer, distributor, or seller of the property, which shall apply as if the consumer were the original purchaser of the property, except where such transfer is prohibited by the terms of the warranty.

SEC. 1007. PROHIBITED PROVISIONS.

A rental-purchase agreement may not contain—

- (1) a confession of judgment;
- (2) a negotiable instrument;
- (3) a security interest or any other claim of a property interest in any goods, except those goods the use of which is provided by the merchant pursuant to the agreement;
- (4) a wage assignment;
- (5) a provision requiring the waiver of any legal claim or remedy created by this title or other provision of Federal or State law;
- (6) a provision requiring the consumer, in the event the property subject to the rental-purchase agreement is lost, stolen, damaged, or destroyed, to pay an amount in excess of the least of—

- (A) *the fair market value of the property, as determined by the Board in regulation;*
- (B) *any early purchase option amount provided in the rental-purchase agreement; or*
- (C) *the actual cost of repair, as appropriate;*
- (7) *a provision authorizing the merchant, or a person acting on behalf of the merchant, to enter the consumer's dwelling or other premises without obtaining the consumer's consent or to commit any breach of the peace in connection with the repossession of the rental property or the collection of any obligation or alleged obligation of the consumer arising out of the rental-purchase agreement;*
- (8) *a provision requiring the purchase of insurance or liability damage waiver to cover the property that is the subject of the rental-purchase agreement, except as permitted by the Board in regulation;*
- (9) *a provision requiring the consumer to pay more than 1 late fee or charge for an unpaid or delinquent periodic payment, regardless of the period in which the payment remains unpaid or delinquent, or to pay a late fee or charge for any periodic payment because a previously assessed late fee has not been paid in full.*

SEC. 1008. STATEMENT OF ACCOUNTS.

Upon request of a consumer, a merchant shall provide a statement of the consumer's account. If a consumer requests a statement for an individual account more than 4 times in any 12-month period, the merchant may charge a reasonable fee for the additional statements.

SEC. 1009. RENEGOTIATIONS AND EXTENSIONS.

(a) **RENEGOTIATIONS.**—*A renegotiation occurs when a rental-purchase agreement is satisfied and replaced by a new agreement undertaken by the same consumer. A renegotiation requires new disclosures, except as provided in subsection (c).*

(b) **EXTENSIONS.**—*An extension is an agreement by the consumer and the merchant, to continue an existing rental-purchase agreement beyond the original end of the payment schedule, but does not include a continuation that is the result of a renegotiation.*

(c) **EXCEPTIONS.**—*New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:*

- (1) *A reduction in payments.*
- (2) *A deferment of 1 or more payments.*
- (3) *The extension of a rental-purchase agreement.*
- (4) *The substitution of property with property that has a substantially equivalent or greater economic value provided the rental-purchase cost does not increase.*
- (5) *The deletion of property in a multiple-item agreement.*
- (6) *A change in rental period provided the rental-purchase cost does not increase.*
- (7) *An agreement resulting from a court proceeding.*
- (8) *Any other event described in regulations prescribed by the Board.*

SEC. 1010. POINT-OF-RENTAL DISCLOSURES.

(a) *IN GENERAL.*—For any item of property or set of items displayed or offered for rental-purchase, the merchant shall display on or next to the item or set of items a card, tag, or label that clearly and conspicuously discloses the following:

- (1) A brief description of the property.
- (2) Whether the property is new or used.
- (3) The cash price of the property.
- (4) The amount of each rental payment.
- (5) The total number of rental payments necessary to acquire ownership of the property.
- (6) The rental-purchase cost.

(b) FORM OF DISCLOSURE.—

(1) *IN GENERAL.*—A merchant may make the disclosure required by subsection (a) in the form of a list or catalog which is readily available to the consumer at the point of rental if the merchandise is not displayed in the merchant's showroom or if displaying a card, tag, or label would be impractical due to the size of the merchandise.

(2) *CLEARLY AND CONSPICUOUSLY.*—As used in this section, the term “clearly and conspicuously” means that information required to be disclosed to the consumer shall appear in a type size, prominence, and location as to be noticeable, readable, and comprehensible to an ordinary consumer.

SEC. 1011. RENTAL-PURCHASE ADVERTISING.

(a) *IN GENERAL.*—If an advertisement for a rental-purchase transaction refers to or states the amount of any payment for any specific item or set of items, the merchant making the advertisement shall also clearly and conspicuously state in the advertisement the following for the item, or set of items, advertised:

- (1) The transaction advertised is a rental-purchase agreement.
- (2) The amount, timing, and total number of rental payments necessary to acquire ownership under the rental-purchase agreement.
- (3) The amount of the rental-purchase cost.
- (4) To acquire ownership of the property the consumer must pay the rental-purchase cost plus applicable taxes.
- (5) Whether the stated payment amount and advertised rental-purchase cost is for new or used property.

(b) *PROHIBITION.*—An advertisement for a rental-purchase agreement shall not state or imply that a specific item, or set of items, is available at specific amounts or terms unless the merchant usually and customarily offers, or will offer, the item or set of items at the stated amounts or terms.

(c) CLEARLY AND CONSPICUOUSLY.—

(1) *IN GENERAL.*—For purposes of this section, the term “clearly and conspicuously” means that required disclosures shall be presented in a type, size, shade, contrast, prominence, location, and manner, as applicable to different mediums for advertising, so as to be readily noticeable and comprehensible to the ordinary consumer.

(2) *REGULATORY GUIDANCE.*—The Board shall prescribe regulations on principles and factors to meet the clear and conspicuous standard as appropriate to print, video, audio, and

computerized advertising, reflecting the principles and factors typically applied in each medium by the Federal Trade Commission.

(3) *LIMITATION.*—Nothing contrary to, inconsistent with, or in mitigation of, the required disclosures shall be used in any advertisement in any medium, and no audio, video, or print technique shall be used that is likely to obscure or detract significantly from the communication of the disclosures.

SEC. 1012. CIVIL LIABILITY.

(a) *IN GENERAL.*—Except as otherwise provided in section 1013, any merchant who fails to comply with any requirement of this title with respect to any consumer is liable to such consumer as provided for leases in section 130. For purposes of this section, the term “creditor” as used in section 130 shall include a “merchant”, as defined in section 1001.

(b) *JURISDICTION OF COURTS; LIMITATION ON ACTIONS.*—

(1) *IN GENERAL.*—Notwithstanding section 130(e), any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 1-year period beginning on the date the last payment was made by the consumer under the rental-purchase agreement.

(2) *RECOUPMENT OR SET-OFF.*—This subsection shall not bar a consumer from asserting a violation of this title in an action to collect an obligation arising from a rental-purchase agreement, which was brought after the end of the 1-year period described in paragraph (1) as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.

SEC. 1013. ADDITIONAL GROUNDS FOR CIVIL LIABILITY.

(a) *INDIVIDUAL CASES WITH ACTUAL DAMAGES.*—Any merchant who fails to comply with any requirements imposed under section 1010 or 1011 with respect to any consumer who suffers actual damage from the violation shall be liable to such consumer as provided in section 130.

(b) *PATTERN OR PRACTICE OF VIOLATIONS.*—If a merchant engages in a pattern or practice of violating any requirement imposed under section 1010 or 1011, the Federal Trade Commission or an appropriate State attorney general, in accordance with section 1016, may initiate an action to enforce sanctions against the merchant, including—

- (1) an order to cease and desist from such practices; and
- (2) a civil money penalty of such amount as the court may impose, based on such factors as the court may determine to be appropriate.

SEC. 1014. LIABILITY OF ASSIGNEES.

(a) *ASSIGNEES INCLUDED.*—For purposes of section 1013, and this section, the term “merchant” includes an assignee of a merchant.

(b) *LIABILITIES OF ASSIGNEES.*—

(1) *APPARENT VIOLATION.*—An action under section 1012 or 1013 for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the rental-purchase agreement to which it relates.

(2) *APPARENT VIOLATION DEFINED.*—For purposes of this subsection, a violation that is apparent on the face of a rental-purchase agreement includes a disclosure that can be determined to be incomplete or inaccurate from the face of the agreement.

(3) *INVOLUNTARY ASSIGNMENT.*—An assignee has no liability in a case in which the assignment is involuntary.

(4) *RULE OF CONSTRUCTION.*—No provision of this section shall be construed as limiting or altering the liability under section 1012 or 1013 of a merchant assigning a rental-purchase agreement.

(b) *PROOF OF DISCLOSURE.*—In an action by or against an assignee, the consumer's written acknowledgment of receipt of a disclosure, made as part of the rental-purchase agreement, shall be conclusive proof that the disclosure was made, if the assignee had no knowledge that the disclosure had not been made when the assignee acquired the rental-purchase agreement to which it relates.

SEC. 1015. REGULATIONS.

(a) *IN GENERAL.*—The Board shall prescribe regulations as necessary to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements.

(b) *MODEL DISCLOSURE FORMS.*—The Board may publish model disclosure forms and clauses for common rental-purchase agreements to facilitate compliance with the disclosure requirements of this title and to aid the consumer in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by merchants of data processing or similar automated equipment. Nothing in this title may be construed to require a merchant to use any such model form or clause prescribed by the Board under this section. A merchant shall be deemed to be in compliance with the requirement to provide disclosure under section 1003(a) if the merchant—

(1) uses any appropriate model form or clause as published by the Board; or

(2) uses any such model form or clause and changes it by—
(A) deleting any information which is not required by this title; or

(B) rearranging the format, if in making such deletion or rearranging the format, the merchant does not affect the substance, clarity, or meaningful sequence of the disclosure.

(c) *EFFECTIVE DATE OF REGULATIONS.*—Any regulation prescribed by the Board, or any amendment or interpretation thereof, shall not be effective before the October 1 that follows the date of publication of the regulation in final form by at least 6 months. The Board may at its discretion lengthen that period of time to permit merchants to adjust to accommodate new requirements. The Board may also shorten that period of time, notwithstanding the first sentence, if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, merchants may comply with any newly prescribed disclosure requirement prior to its effective date.

SEC. 1016. ENFORCEMENT.

(a) *FEDERAL ENFORCEMENT.*—Compliance with the requirements imposed under this title shall be enforced under the Federal Trade

Commission Act (15 U.S.C. 41 et seq.), and a violation of any requirements imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements of this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional test in the Federal Trade Commission Act.

(b) STATE ENFORCEMENT.—

(1) IN GENERAL.—*An action to enforce the requirements imposed by this title may also be brought by the appropriate State attorney general in any appropriate United States district court, or any other court of competent jurisdiction.*

(2) PRIOR WRITTEN NOTICE.—

(A) IN GENERAL.—*The State attorney general shall provide prior written notice of any such civil action to the Federal Trade Commission and shall provide the Commission with a copy of the complaint.*

(B) EMERGENCY ACTION.—*If prior notice is not feasible, the State attorney general shall provide notice to the Commission immediately upon instituting the action.*

(3) FTC INTERVENTION.—*The Commission may—*

(A) *intervene in the action;*

(B) *upon intervening—*

(i) *remove the action to the appropriate United States district court, if it was not originally brought there; and*

(ii) *be heard on all matters arising in the action; and*
(C) *file a petition for appeal.*

SEC. 1017. CRIMINAL LIABILITY FOR WILLFUL AND KNOWING VIOLATION.

Whoever willfully and knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this title or any regulation issued thereunder shall be subject to the penalty provisions as provided in section 112.

SEC. 1018. RELATION TO OTHER LAWS.

(a) RELATION TO STATE LAW.—

(1) NO EFFECT ON CONSISTENT STATE LAWS.—*Except as otherwise provided in subsection (b), this title does not annul, alter, or affect in any manner the meaning, scope or applicability of the laws of any State relating to rental-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.*

(2) DETERMINATION OF INCONSISTENCY.—*Upon its own motion or upon the request of an interested party, which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a term or provision of a State law is inconsistent, merchants located in that State need not follow such term or provision and shall incur no liability under the law of that State for failure to follow such term or provision, notwithstanding that such determination is*

subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(3) GREATER PROTECTION UNDER STATE LAW.—Except as provided in subsection (b), for purposes of this section, a term or provision of a State law is not inconsistent with the provisions of this title if the term or provision affords greater protection and benefit to the consumer than the protection and benefit provided under this title as determined by the Board, on its own motion or upon the petition of any interested party.

(b) STATE LAWS RELATING TO CHARACTERIZATION OF TRANSACTION.—Notwithstanding the provisions of subsection (a), this title shall supersede any State law to the extent that such law—

(1) regulates a rental-purchase agreement as a security interest, credit sale, retail installment sale, conditional sale or any other form of consumer credit, or that imputes to a rental-purchase agreement the creation of a debt or extension of credit, or

(2) requires the disclosure of a percentage rate calculation, including a time-price differential, an annual percentage rate, or an effective annual percentage rate.

(c) RELATION TO FEDERAL TRADE COMMISSION ACT.—No provision of this title shall be construed as limiting, superseding, or otherwise affecting the applicability of the Federal Trade Commission Act to any merchant or rental-purchase transaction.

SEC. 1019. EFFECT ON GOVERNMENT AGENCIES.

No civil liability or criminal penalty under this title may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of a State or political subdivision.

SEC. 1020. COMPLIANCE DATE.

Compliance with this title shall not be required until 6 months after the date of the enactment of the Consumer Rental Purchase Agreement Act. In any case, merchants may comply with this title at any time after such date of enactment.

SUPPLEMENTAL VIEWS OF HON. JOHN J. LAFALCE

The Consumer Rental Purchase Agreement Act adopted by the Financial Services Committee differs significantly from the industry drafted bill introduced in Committee and reflects serious movement in a pro-consumer direction. The bill is an important first step toward providing a uniform national standard for regulation of rent-to-own transactions.

The Rent-to-Own industry has had a somewhat troubled history. But it is an important industry that, in many cases, offers a service to consumers that they want and need, and many have no other way to obtain. While a few states offer rent-to-own consumers some important protections, the vast majority of states offer no, or minimal, protection. This industry has become too important to lack uniform national regulation. For that reason, I support the development of a Federal standard. But it must be a strong standard. And it must provide only a floor, allowing states to be more protective if they choose to be.

As amended by the Committee, H.R. 1701 comes much closer to meeting that standard. However, I am reluctant to support a bill that the consumer groups and attorneys general continue to oppose. It is unfortunate that we have not had the opportunity to get the views of both of these groups on what is now a substantially different draft.

While I understand the desire of supporters of the bill to move the legislative process along, we need to recognize that the Senate calendar is such that there will be little time for the Senate Committee to initiate a legislative process on this matter, nor is the Senate Banking Committee leadership disposed to do so. The only way we can hope to enact legislation is if the House product has such broad bipartisan support that the Senate might seriously consider taking up the House bill. Unfortunately, this product does not yet take us to that point.

The amendments adopted in Full Committee make a number of important and needed improvements to the bill. The amended bill provides for clearer and more relevant disclosure of costs to consumers, particularly the total to the consumer of acquiring ownership of rented merchandise. It adds a number of new substantive protections for consumers and it enhances enforcement by eliminating a number of legal loopholes that would have permitted rent-to-own merchants to avoid liability for violations.

However, other problems remain unresolved. The bill does not provide adequate ownership rights for consumers. It does nothing to limit the exorbitant costs that some consumers must pay over time to acquire rental-purchase merchandise. And it continues to preempt states from applying the legal principles and cost standards that they consider most appropriate for rent-to-own transactions.

H.R. 1701 is an important first step in providing uniform protections for rent-to-own customers. But we need to do more before H.R. 1701 constitutes a suitable Federal standard.

JOHN J. LAFALCE.

SUPPLEMENTAL VIEWS OF HON. MAXINE WATERS ET AL.

The Consumer Rental Purchase Agreement Act is special interest legislation at its very worst. The bill is falsely presented by its industry proponents as pro-consumer and as not pre-emptive of state law. Neither is true. The bill has one purpose and one purpose only: to circumvent stronger consumer protections in the Federal Truth-in-Lending Act and in the statutes of a handful of States that the rent-to-own industry has not been able to overturn.

As originally introduced, H.R. 1701 sought to preempt all inconsistent State laws. This included all current or future State laws that attempt to regulate rent-to-own transactions as credit or installment sales, as well as any industry-enacted State rent-to-own statutes that provide stronger, but inconsistent protections for consumers. Although the amended Committee bill has narrowed the scope of the bill's preemption, the bill would still preempt the best of the State laws in New Jersey, Minnesota, Wisconsin, and Vermont that seek to provide meaningful protections against unfair predatory practices. And it would still prevent these and other states from strengthening consumer protections in the future by treating rent-to-own transactions as credit sales.

What is behind this bill? Not a desire to create a "Federal floor" of consumer protections for rent-to-own customers, as the majority views allege. It is an effort to avoid hundreds of millions of dollars in legal penalties imposed by courts in precisely those States whose laws would be preempted. Since 1997, legal actions responding to State consumer law violations have produced legal judgments or settlements against the nation's largest rent-to-own chain, Rent-A-Center, Inc., amounting to \$30 million in Minnesota, \$16 million in Wisconsin and more than \$60 million in New Jersey. Unable to win under these State laws, or to overturn them at the State level, the rent-to-own industry is simply calling on Congress to preempt them.

All national consumer organizations oppose H.R. 1701 as an inadequate standard to protect vulnerable consumers from misleading lease arrangements that really mask installment sales at exorbitant rates of interest. Consumer advocates object to rent-to-own operations as enticing vulnerable consumers to acquire electronic equipment, appliances, furniture and other household items with promises to no credit checks, no qualification and low payments that disguise the true cost of the transaction. Most rent-to-own stores encourage consumers to focus only on the affordability of the low weekly or monthly lease payment and ignore the total cost of actually acquiring merchandise over the term of the rental-purchase contract.

Every market comparison done by consumer organizations of the cost of acquiring comparable merchandise under rent-to-own contracts and alternative credit or installment sales typically show the

total rent-to-own cost as averaging three to five times higher than both the retail price of the merchandise and the comparable credit price. This imposes an excessive cost burden on low-income families who have no other means of acquiring basic household items other than local rent-to-own stores.

Rent-to-own merchants are not the only ones targeting this same group of vulnerable consumers. Low-income communities are besieged by predatory mortgage companies, payday lenders, check cashiers, pawnshops and other quasi-financial companies that are all trying to rob the same families of their merger dollars. The results have been devastating for struggling families and for entire neighborhoods.

H.R. 1701 does nothing to restrict the exorbitant costs of acquiring merchandise for rent-to-own contracts. Moreover, it fails to meet the basic standard for full cost disclosure under the Truth-in-Lending Act by preventing consumers from using annual percentage rate (APR) calculations or other common market measures of total costs to compare the total cost of rent-to-own transactions with alternative credit and installment sales options.

The Consumer Rental Purchase Agreement Act should be defeated for several important reasons. It contradicts all arguments of States' rights and denies States the opportunity to regulate commercial transactions as they think best. It promotes and encourages business transactions that target and prey upon our most vulnerable citizens. And, it seeks to impose an industry-approved standard of consumer protection in place of long-established principles of Federal and State laws that have proven effective over four decades.

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